

APPROVED: Meeting No. 38-97

ATTEST: *Paula Jewell*

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
Meeting No. 33-97

July 28, 1997

The Mayor and Council convened in Public Hearing in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on July 21, 1997, at 7:35 p.m.

PRESENT

Mayor Rose Krasnow

Councilmember Robert E. Dorsey

Councilmember Glennon Harrison

James T. Marrinan

Councilmember Robert J. Wright

In attendance: City Manager Rick Kuckkahn, City Clerk Paula Jewell and City Attorney Glasgow.

Re: City Manager's Report

1. Last Saturday, a large group of residents participated in the Upper Watts Branch Park and Forest Dedication Ceremony. The purpose of the dedication was to formally recognize the importance of this wooded area and its use as a passive recreation area.

2. The Employee Wellness Program won the Association for Worksite Health Promotions Business and Industry Award for Government Agencies. This is a prestigious international award given to a federal, state or local government regardless of

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3. The Twinbrook Parkway bridge rehabilitation project will be ongoing over the next several months. The Montgomery County Department of Public Works and Transportation is beginning work on the Twinbrook Parkway Bridge located over the CSX and WMATA railroad. The rehab consists of replacing the super structures and slope work adjacent to the bridge. The County has notified residents and businesses in proximity to the construction area.

Re: Proclamation declaring August 5,
1997 as **NATIONAL NIGHT
OUT** in Rockville.

Proclamation No. 13-97

By a unanimous vote of the Mayor and Council, August 5, 1997 was declared "National Night Out." Upon the request of the Mayor, Councilmember Marrinan read the Proclamation, the full text of which can be found in the 1997 Proclamation File of the Mayor and Council.

Mayor Krasnow mentioned that there are 31 neighborhood groups having parties this year. The number of National Night Out participants has grown significantly over the years and the Mayor and Council try to attend as many parties as possible. The Mayor called representatives from 7 community groups that were present in the audience to receive certificates for their National Night Out organizational efforts.

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Re: Citizens Forum - This time is set aside to hear from any citizen who wishes to address the Mayor and Council.

1. Mark Lovett - 40 Orchard Way North owner of American Pawnshop located at 202 Park Road in Rockville, expressed his concern over the possibility of having to close his business.

2. Al Avery - 611 Aster Boulevard addressed the pawnbroker issue in general and the American Pawnshop in particular. Mr. Avery said he has purchased a number of items from the pawnshop and expressed his satisfaction with his business dealings with that store.

3. Russell Connor - Montgomery County Resident spoke in support of American Pawnshop.

4. Murray Stein - 616 Northcliffe Drive asked the Mayor and Council to consider installing handicap parking spaces in the rear lot of the Senior Center. Since the renovation of the Center, there has been an increased need to access rooms located in the rear of the building. Mr. Kuckkahn told the Mayor and Council that he would work with staff to address the handicap parking concern at the Senior Center.

5. Sean Barnwell - Manager of American Pawn Shop invited the Mayor and Council, or anyone who questioned the integrity of American Pawnshop, to drop by his business anytime.

6. Barbara Sears, Attorney for Hillrose, LLC spoke in reference to some wording contained in the draft Resolution for the approval of the Planned Residential

Unit. Ms. Sears mentioned the following items:

- Development standards For Dwelling Units - Mayor and Council instructed the minimum sideyard requirement to be six feet. Ms. Sears indicated that because there has been a change in the MPDU standard that the six foot requirement would now be more appropriate at four feet.

Conditions of the Plan approval.

Ms. Sears said that given the history of the project, there were many different changes that have occurred to the exploratory plan itself, and she suggested the following condition be added: "that the property should be developed in accordance with the exploratory plan as revised, submitted to the City by Loiederman & Associates, subject to the requirements and conditions set forth in this Resolution." Ms. Sears said this proposed language would better tie into the changes that have occurred to the Plan, and the various agreements that have been reached specific to that Plan and the conditions.

- Condition No. 2 - Ms. Sears asked that the environs be more specific to read: "the Rose Hill Mansion on a lot containing approximately 1.6 acres and the right-of-way for the main entry road containing approximately 1 acre.

- Condition No. 5 - re density. Ms. Sears asked that the number of dwelling units stay at 149. She asked for approval of the exploratory plan with a density of 149 units to support the entire detail plan that is reflected in all the other conditions.

- Condition No. 7 - regarding the tot lot. Ms. Sears asked that the tot lot be in the open space area, which would prevent the loss of one or more lots.

- Condition No. 8 - regarding the pathway. There was discussion about

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an internal pathway leading to Bullards Park. Ms. Sears asked that the Mayor and Council consider not going forward with the pathway based on minimal gain that could be achieved and the loss of lots.

- Condition No. 12 - regarding the time of dedication of Bullard's Park.

Ms. Sears suggested that if a time certain is needed that perhaps a recordation of record plats would be appropriate.

7. Larry Goldstein, principle of Hillrose, LLC, 8330 Boone Boulevard, Vienna, VA - commented regarding his firm's participation with affected neighborhood groups to arrive at, together, a plan that could be agreed upon and supported.

8. Judy Koster, Vice President of Rockshire Homeowner's Association - regarding the Watts Branch Pump Around alternative option. Ms. Koster said that the Rockshire Community supports the route decided upon.

9. Bill Meyer, 804 Leverton Road - Supports the Watts Branch pump around alternative option.

Re: Appointments

Mayor Krasnow said that the Human Services Advisory Commission is a brand new commission which has been formed as a result of an initiative from the previous Mayor, Jim Coyle. Mayor Coyle wanted to be sure that the needs of the less fortunate in Rockville were addressed by the City. A task force was formed to identify the human needs in Rockville. Based upon their recommendation, the Human Services Advisory Commission is being established.

Upon motion of Councilmember Harrison, duly seconded and unanimously

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passed, the following were appointed to the Human Services Advisory Commission:

Consumer Representatives: Liza Amoroso, David L'Heureux;

Caregivers Coalition Representatives: Ann Chapman, Tom Lawrey and Agnes Saenz;

At-Large Representatives: Geoff Becker, Cynthia Hernan, Sharon Merisotis and Rusty Wallace.

Re: Approval of Minutes

Upon motion of Councilmember Harrison, duly seconded and unanimously passed, the Minutes of Meeting No. 15-97 (March 25, 1997), tabled from July 14, 1997, were approved as amended.

Upon motion of Councilmember Harrison, duly seconded and unanimously passed, the Minutes of Meeting No. 19-97 (April 15, 1997) were approved as amended.

Upon motion of Councilmember Harrison, duly seconded and unanimously passed, with Councilmember Marrinan abstaining, the Minutes of Meeting No. 20-97 (May 5, 1997) were approved as amended.

Upon motion of Councilmember Harrison, duly seconded and unanimously passed, the Minutes of Meeting No. 21-97 (May 6, 1997) were approved as amended.

Upon motion of Councilmember Harrison, duly seconded and unanimously passed, the Minutes of Meeting No. 21A-97 (May 14, 1997) were approved.

Upon motion of Councilmember Harrison, duly seconded and unanimously passed, the Minutes of Meeting No. 22-97 (May 12, 1997) were approved as amended.

Upon motion of Councilmember Harrison, duly seconded and unanimously

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passed, with Councilmember Marrinan abstaining, the Minutes of Meeting No. 23-97 (May 19, 1997) were approved as amended.

Upon motion of Councilmember Harrison, duly seconded and unanimously passed, the Minutes of Meeting No. 24-97 (May 20, 1997) were approved as amended.

Re: Consent Agenda

Councilmember Harrison requested removal of Consent Agenda Items A and B. Upon motion of Councilmember Wright, duly seconded and unanimously passed, the following item was approved:

(C) Award of Bid #001P7800487
To: Sheehy Ford, Inc.
Of: Marlow Heights, MD
In the amount of: \$79,024

For: Purchase of four (4) Police
Patrol Cars

Re Item (A) - Award of Bid 65060083
To: Concrete General, Inc.
Of: Gaithersburg, MD
In the amount of: \$190,000.00

For: Generic Highway
Improvements

Councilmember Harrison commented that this consent item provided funding for small transportation projects around the city designed to make improvements in neighborhoods (i.e., sidewalk sections that are missing, speed humps and for major improvements to Nelson Street).

Councilmember Marrinan mentioned that these are issues that have been brought before the Mayor and Council in a number of forums and that this action is a big step in the right direction in addressing those issues. Upon motion of Councilmember

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Harrison, duly seconded and unanimously passed, Bid #65060083 was awarded to Concrete General, Inc.

Re Item B - Award of Contract
To: CMSA/Halifax Technology
Services
Of: Hanover, MD
In the amount of: \$131,172

For: Computer equipment and
software per the terms and
conditions of Montgomery County
Contract No. 13572

Councilmember Harrison mentioned that recently there have been significant reductions in the price of Intel processors and wondered whether the above vendor might pass along some savings to the city. Mr. Harrison said he would approve the procurement of the item this evening on the condition that a reduction in price, which is being so widely reported by the press, be passed on to the City. Mr. Kuckkahn said that staff would reexamine the price and report back to the Mayor and Council. Upon motion of Councilmember Harrison, duly seconded and unanimously passed, the contract to CMSA/Halifax Technology Services was awarded.

Councilmember Dorsey expressed his pleasure that all of the bid awards were for money being spent in Maryland.

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Re: Adoption of Ordinance to amend Chapter 24 of the Rockville City Code, entitled "Water, Sewers and Sewage Disposal," Section 24-46. "Water consumption charge" to provide that there will be no charge for water used in connection with a fire suppression system, in certain circumstances.

City Manager Kuckkahn reported that the Fire Marshall is looking for cooperation in terms of suppression systems. Some systems do use water for testing purposes. The idea behind the proposed change is to provide water free of charge when it is used for fire suppression testing. Mr. Kuckkahn said that the amount of water used is minimal and would not impact our utility and that it sends the right kind of signal to the industries involved in this type of testing. Mayor Krasnow asked that an impact analysis be done to determine, after a certain amount of time, the exact cost to the City.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the ordinance was adopted. A copy of the full text of the ordinance may be found in Ordinance Book No. 19 of the Mayor and Council.

Re: Adoption of Ordinance to levy Special Assessments for Driveway Aprons constructed in Fiscal Year 1997. The City performed 52 driveway apron jobs requested by the residents. The assessable cost is \$38,405.32.

City Manager Kuckkahn reported that these driveway apron jobs are requested by residents and are consistent with City contracts. The amounts are charged

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back to the resident upon completion.

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the ordinance was adopted. A copy of the full text of the Ordinance may be found in Book No. 19 of the Mayor and Council.

Re: Adoption of Ordinance to Grant Map Amendment Application MAP97-0063 to reclassify 39.6 acres of the Chestnut Lodge property from R-S, Suburban Residential to R-90, One-Family Detached, Restricted Residential Zone, Hillrose, L.L.C., Fall Line Company, Chestnut Lodge Research Institute, Inc., and Anthony Bullard, Trustee, Applicants.

AND:

Re: Adoption of Resolution to Approve PRU97-0019, Exploratory Application for a Planned Residential Unit development on a 39.6 acre portion of the Chestnut Lodge property, Hillrose, L.L.C., Applicant.

For approval of 149 single family residential units on the property at Great Falls Road opposite Monument Street.

The following is a summary of some points in the proposed Resolution that were discussed:

Dedication of Bullard's Park

Mayor Krasnow asked how long it would take for the record plat to become

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recorded. Chief Planner Lisa Rother responded that under the Zoning Ordinance, once a plat is submitted, it must be acted upon within 30 days. It is up to the applicant to ensure that any easements are properly put into place. After the conditions have been approved, it can then be recorded. The time varies with each applicant. Ms. Rother estimated that the recordation of this dedication could take anywhere from 6 months to a year. Mayor Krasnow said she understands that the applicant does not wish to dedicate this park before they have purchased the property, but also realizes the importance of the City getting the land in a timely manner.

Tot Lot/Playground

Councilmember Wright asked for clarification as to the word "eastern" and where that area was located. Using a map, Ms. Lisa clarified where the proposed tot lot would be. Councilmember Harrison proposed that the lot be placed in the Eastern end so that it would be accessible by Thomas or Wall Street residents. It was suggested by Mayor Krasnow that the direction not be specified for the tot lot, to simply say that the detailed application "shall address the need for a playground tot lot." Councilmember Marrinan commented that the lot would be used by toddlers and should be in close, walkable proximity. He would like to see it placed in a more feasible area in that part of the development. Ms. Rother answered that there is no other open space in that part of the development without using a building lot. Councilmember Harrison suggested that the Planning Commission might work with Hillrose to determine the placement of the tot lot. He said because there are no residents yet to speak on the issue, he would like to see it addressed in their absence. Mayor Krasnow said that this item could not be approved

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tonight and it was agreed to instruct staff to rewrite the ordinance to keep the tot lot language but instead of designating it to a specific location, leave that decision for the detailed application stage.

Development Standards for Dwelling Units

There was discussion with respect to rear setback requirements for garages. Ms. Rother explained that there was language missing that should read that this requirement is "specifically for alley-accessed units."

The Mayor was concerned that there was no language saying that garages could not be converted into rooms. The City Attorney responded that he thought there was a covenant placed on the land records as part of the approval process at the detailed stage requiring that garages cannot be used for residential occupancy. The City Attorney will verify this information. Mayor Krasnow asked to see photographs when the matter was brought back to them next week.

Development Standards for Accessory Buildings

Concerning the maximum front setback at 60 feet, Mayor Krasnow asked for clarification. Ms. Rother explained that the accessory structure would be placed in the rear yard.

City Trash Trucks & Privately Owned Alleyways

Since the trash trucks will not be using the alleyways, the Mayor inquired if the residents had to take their trash to the curb for pickup. Ms. Rother responded that they would be required to bring trash either to the end of the alley or the curb. Mr. Kuckkahn responded that adjustments have been made to allow for early trash pickup of

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those units so there is little disruption to the traffic flow on Falls Road.

Emergency Vehicular Access - Thomas Street

Mr. Goldstein said that as part of negotiations with the West End, the citizens were concerned about the existing emergency access at the end of Thomas Street and requested that the developer consider closing that emergency access subject to Planning Commission approval. CPC agreed to this condition because a new emergency access road will be constructed.

Moderately Priced Dwelling Units Setbacks

There was discussion that centered around the specified 6 foot side setbacks for all units because the developer now wants 4 foot side setbacks. The Mayor asked for language that said if there are garages on structures that the 4 foot side setback is acceptable. If not, the setback would be 6 feet.

Pedestrian Pathway

Discussion centered around the issue raised by the applicant concerning the number of units that the pathway would eliminate. Councilmember Harrison disagreed with staff's recommendation on the number of lots (between 4 - 5) that may be lost if the pathway is provided. He feels that two lots is a more reasonable number: one on each block, and to provide a 10 foot easement between the houses with setbacks at 6 feet. Councilmember Harrison mentioned other pathways (Fallsmead, New Mark Commons & Rockshire) in the City that work very well. Councilmember Marrinan also spoke in favor of the pathway. Living in a community that has quite a few pathways, Councilmember Marrinan said they are clearly desired. He would like to see pathways in this development

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even if that meant reducing the density. It was decided by the Mayor and Council that there will be a pathway from the southern end of the property to Bullard's Park with the Planning Commission deciding the location.

Density

Under the proposal, the Mayor and Council have been asked to approve 149 single family dwelling units. Mayor Krasnow commented that the Mayor and Council should give the Planning Commission some leeway from the 149 amount to as low as 142. She does not wish, however, to not go any lower than that amount. Her recommendation would be to make the amount of single family dwelling units 149 and the Planning Commission could require that up to 7 units could be deleted based on considerations that come up at the detailed site plan.

Lots Containing Wet Soils

Councilmember Marrinan asked about the appropriate measures to address this issue. Mr. Kuckkahn responded that there are measures provided in the Building Code where sump pump mechanisms and foundation pipes and waterproofing to protect the basement from the potential hydraulic pressure and water volumes. Mayor Krasnow proposed language which would state that at the time of detailed approval, the Planning Commission set forth appropriate measures to address the issue of wet soils.

With no further details to discuss with the Map Amendment and Planned Residential Unit applications, the Mayor and Council instructed that staff incorporate the issues discussed this evening into a new document to come back before the Mayor and Council next week.

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Re: Discussion and instruction to staff to negotiate a participation agreement with Penrose concerning the sanitary sewer pump around route of choice to serve the King Farm Development. The option would follow the route west on Gude Drive across 270, turn south on Key West Avenue, turn west on Darnestown Road, turn south on Glen Mill Road, turn southeast on Wootton Parkway to Scott Drive.

Mr. Kuckkahn defined the term "Participation Agreement." This agreement will define the responsibilities of WSSC, the City of Rockville and the Penrose Group. It will also define the responsibilities of the sewer line. Mr. Kuckkahn thanked the citizens for their input.

Hal Cranor, Director of Public Works, presented the alignment of the proposed sewer line. The Mayor and Council congratulated Mr. Cranor for the pump around solution. Councilmember Harrison said it was ideal in many respects, but in large part because it avoids the stream valley. With the pump around alternative solution being resolved, Councilmember Dorsey said the deterioration of the stream valley should now become the main focus. There being no further discussion, the Mayor and Council authorized the City Manager and the City Attorney to negotiate a Participation Agreement with the Penrose Group which would set out the terms and conditions of the sanitary sewer pump around route discussed above.

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Re: Discussion of Pawnshop
Legislation - To review a report on
pawnshop regulation and to provide
direction to staff on legislative
action on this issue.

Mr. Kuckkahn explained that in response to concern expressed out in the larger community with respect to pawn shops, the intent of this legislation is to define "pawn shop." That definition does not currently exist in the Zoning and Planning Ordinance and it was felt that this a deficiency that needs addressing. Chief Planner Lisa Rother presented a summary of staff recommendations which resulted from Mayor and Council instructions of July 14th, 1997. Those recommendations are as follows:

- Create a new definition for Pawn Shop;
- Create a new definition for specialty retail shop;
- Permit Pawn Shops by special exception in the I-1 zone;
- Include a separation requirement of 400 feet from residentially zoned land as a special development requirement of the special exception approval for Pawn Shops; and
- Permit "Specialty Retail" shops by right in the C-2, I-1, TCO-2, TCM-1, TCM-2, and RPC zones.

Councilmember Marrinan asked that, in view of the recommendations, would the current pawnshop at 202 Park Road have to move. Ms. Rother responded that with this proposed legislation, the pawn shop owner could apply for a special exception that if approved, would allow him to remain.

Mayor Krasnow commended staff for the excellent job on the report to the

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Mayor and Council. She commented on the recent findings of the Baltimore County Planning Board where it stated that pawnshops affected decisions of businesses to move to areas where pawn shops were allowed. It also has an effect on residential property values.

Councilmember Harrison commended staff for the informative report stating that it provides an excellent basis for formulating an ordinance on the regulations of pawnshops. The City of Gaithersburg discovered that their jurisdiction was rapidly becoming the location of choice for pawn operations and Councilmember Harrison suggested that city staff carefully mirror the County's regulations to avoid the appearance of Rockville becoming a haven for pawn brokering businesses. Councilmember Harrison asked if the Board of Appeals could consider the overall density as being one factor, rather than establishing a concrete number since pawn shops are a special exception use in the I-1 zone.

There was discussion on the progress of the County's legislation and whether the City might be able to compare with the County as we formulate our own law. Councilmember Harrison said that in addition to the zoning aspect of pawn operations, the County is also proposing licensing regulations and fee structure. He suggested that the City try to adopt fees essentially similar to the County's. Ms. Rother said that the City adopted the County's license procedures as part of our regulations; that the County law applies in the City.

There being no further discussion, the Mayor and Council instructed staff to prepare for filing a text amendment which would amend the Zoning Ordinance to add two new definitions to the Zoning Ordinance for "pawnbroker" and for "specialty retail," and to

also define in which zones the uses would be permitted, and any special development standards that would be associated with the uses.

Re: New Business

1. Councilmember Marrinan asked that staff explore the feasibility of enlisting the services of a professional environmentalist to assist with ongoing environmental issues for use during development and planning processes. This would ensure that environmental issues are addressed in the initial stages of development. Councilmember Harrison suggested that an environment planner on staff could coordinate development activity as it relates to the environment. There was discussion on evaluating the hiring of a consultant versus having a specialist on staff. Mayor Krasnow mentioned that with the reorganization of the Planning Department taking place, it might be a good time to consider this issue. Councilmember Wright said that expertise on the environment issues is needed on a city-wide departmental basis. Councilmember Dorsey suggested that perhaps City boards and commissions could be better utilized in the environmental issues. The Science, Technology and Environment Commission has a number of individuals who have an expertise in dealing with environmental issues.

2. With respect to the dedication of the Nature Preserve, Councilmember Dorsey asked if we could look into legislation that would ensure the perpetuity of the conservation easement over city parkland. City Manager responded that there are a number of mechanisms the City could explore. Mr. Kuckkahn responded that some cities have a separate zoning district for parks and perhaps that could be explored as an option.

3. With respect to the walking billboards on Rockville Pike, Mr. Kuckkahn

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indicated that the issue is currently being examined by the City Attorney's office and there are several Constitutional issues that must be resolved. It will delay the matter, somewhat, and as soon it is complete it will be brought back to the Mayor and Council.

Re: Adjournment to Executive
Session

Upon motion of Councilmember Bob Wright, duly seconded and unanimously passed, with Mayor Krasnow, Councilmembers Dorsey, Harrison, Marrinan and Wright voting "aye," the meeting adjourned at 10:40 p.m. to Executive Session pursuant to Section 10-508(a)(7) and (a)(1)(ii) of the State Government Article, Annotated Code of Maryland, to consult with counsel to obtain legal advice and to discuss a personnel matter.